HONOURABLE SMT.JUSTICE T.MEENA KUMARI

&

HONOURABLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO:1564 OF 2005

10TH AUGUST, 2005

Between:

B.Narayana Chary, s/o Krishnama Chari.

…Appellant.

&

1.The Industrial Tribunal-cum-Labour Court, Ananthapur

& another.

…Respondents.

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JUDGMENT (Per the Honourable Smt. Justice T.Meena Kumari.)

This writ appeal is filed by the appellant aggrieved by the order of the learned single Judge in W.P.No:4874 of 1994, dated 22.7.2004, under which the learned single Judge dismissed the writ petition with the observations as indicated therein

The appellant is the writ petitioner. He filed the writ petition seeking to call for the records relating to I.D.No:231 of 1990 on the file of the Labour Court, Ananthapur and set aside the award dated 7.5.1991 and to declare the same as illegal in so far as the denial of back wages and imposing the punishment of not to give any promotion for a period of 5 years and not to draw any increments for the said 5 years and consequently, to direct the 2nd respondent to pay full back wages from the date of removal from service i.e., 19.5.1990 and till the date of reinstatement i.e., 28.8.1991 and pay all increments give promotion for which he is eligible.declare the action of the appellants in imposing the punishment of deferment of annual increment for a period of one year with cumulative effect without holding any departmental enquiry vide proceedings No:01/83(12)/92-BPL, dated 16.9.1992, which was confirmed by the appellate and review authorities as illegal and arbitrary and to set aside the same by directing the appellants to refix the pay of the petitioner by adding the differed increment with effect from 16.9.1992 and to pay the arrears. The learned single Judge having observed that such an award cannot be said to be without jurisdiction and the power is vested with the Tribunal under section 11A of the Industrial Tribunal Act, 1947, dismissed the writ petition. Aggrieved by the same, the present writ appeal is filed by the petitioner.

Heard the learned counsel.

We have perused the material available on record and the order impugned.

While reinstating the petitioner with continuity of service, but without back wages, it is observed by the learned Tribunal that the petitioner should not be given any promotion for 5 years and he is also not entitled for increments for the said period of five years. Coming to the facts of the case, the charge against the petitioner is that while collecting Rs.3.75ps. he issued the ticket for Rs.1/- only. The learned Tribunal having considered the contentions on either side observed that the punishment of removal from service is quite harsh and disproportionate to the offence committed by the petitioner and ordered for reinstatement of the petitioner with continuity of service, but without back wages. It is further observed by the learned Tribunal that the petitioner should not be given any promotion for five years and that he is also not entitled for increments for the said period of 5 years. While ordering reinstatement of the petitioner with continuity of service, but without back wages, imposition of other punishments as to the stoppage of promotion for five years as well as stoppage of increments for such period, amounts to deviation of its own order of reinstatement with continuity of service, but without back wages. Therefore, considering the gravity of the charge and in view of the fact that the punishment imposed by the authority is without conducting any enquiry, without expressing any opinion on the merits of the case, We deem it appropriate to modify the above two aspects to the effect that the petitioner is not entitled to any increment for five years, but without any cumulative effect. However, he is not entitled to any arrears to that effect.

Subject to the above modification, this writ appeal is disposed of.

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(T.MEENAKUMARI, J)

10th August, 2005

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(P.LAKSHMANA REDDY, J)

Gurc/RKK.

HONOURABLE SMT. JUSTICE T.MEENAKUMARI

&

HONOURABLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL (SR) No:44477 of 2005

(judgment delivered by Smt.Justice T.MeenaKumari)

10th August, 2005